

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
SPANSKI ENTERPRISES, INC. and :
EUROVU, S.A., :
Plaintiffs, : 12-CV-4175-WHP-AJP
v. :
INTERCOM VENTURES, LLC, INTERCOM :
POLAND, LLC, TONY HOTI, and DYLAN :
BATES, :
Defendants. :
----- X

DECLARATION OF JONATHAN ZAVIN IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANT DYLAN BATES' MOTION TO DISMISS

I, JONATHAN ZAVIN, hereby declare as follows:

1. I am an attorney admitted to practice in the Courts of New York State, as well as the Southern District of New York, and am a partner at Loeb & Loeb LLP, representing Plaintiffs Spanski Enterprises, Inc. ("SEI") and EuroVu, S.A. ("EuroVu") in this action.
2. I respectfully submit this Declaration in support of Plaintiffs' Opposition to the Motion to Dismiss filed by Defendant Dylan Bates.
3. With the exception of Exhibits 1, 2, 4, 30 and 31, the Exhibits attached to this Declaration contain documents and e-mails produced by Mr. Bates, who identified these documents at his deposition.
4. Attached hereto as Exhibit 1 is a true and correct copy of an Affidavit of Service for Dylan Bates in regards to the original Complaint filed in this action.

5. Attached hereto as Exhibit 2 is a true and correct copy of an Affidavit of Service for Intercom Poland, LLC (“Intercom Poland”) in regards to the original Complaint filed in this action, as well as Plaintiffs’ preliminary injunction motion and supporting documents.

6. Attached hereto as Exhibit 3 is a true and correct copy of the Operating Agreement for Intercom Poland (dated as of November 30, 2010).

7. Attached hereto as Exhibit 4 are true and correct copies of excerpts from the transcription of the September 5, 2012 deposition of Dylan Bates.

8. Attached hereto as Exhibit 5 is a true and correct copy of an Articles of Organization filing by DBPol, LLC (“DBPol”) with the State of Illinois (dated September 2, 2010).

9. Attached hereto as Exhibit 6 is a true and correct copy of an Application for Admission to Transact Business filed by Intercom Poland with the State of Illinois (dated September 17, 2010).

10. Attached hereto as Exhibit 7 is a true and correct copy of the Operating Agreement of DBPol (dated as of September 8, 2010).

11. Attached hereto as Exhibit 8 is a true and correct copy of an October 7, 2010 e-mail from Mr. Bates to Tony Hoti and Drilon Qehaja.

12. Attached hereto as Exhibit 9 is a true and correct copy of an October 8, 2010 e-mail exchange between Mr. Bates and Mr. Hoti.

13. Attached hereto as Exhibit 10 is a true and correct copy of a January 17, 2011 e-mail from Mr. Bates to Mr. Hoti.

14. Attached hereto as Exhibit 11 is a true and correct copy of a May 25, 2011 e-mail from Nunzio Castellano to Mr. Bates.

15. Attached hereto as Exhibit 12 is a true and correct copy of a January 5, 2012 e-mail from Mr. Castellano to LeAnn Piotrowski (Mr. Bates' executive assistant), on which Mr. Bates was copied.

16. Attached hereto as Exhibit 13 is a true and correct copy of a January 27, 2012 e-mail from Mr. Hoti to Mr. Bates (among others).

17. Attached hereto as Exhibit 14 is a true and correct copy of an April 4, 2012 e-mail from Mr. Castellano to Mr. Bates.

18. Attached hereto as Exhibit 15 is a true and correct copy of a February 7, 2012 letter from Lloyd Rothenberg (a partner at Loeb & Loeb) to Intercom Ventures, LLC ("Intercom Ventures").

19. Attached hereto as Exhibit 16 is a true and correct copy of a February 14, 2012 letter from Mr. Rothenberg to Intercom Ventures.

20. Attached hereto as Exhibit 17 is a true and correct copy of a February 20, 2012 letter from Mr. Rothenberg to Intercom Ventures.

21. Attached hereto as Exhibit 18 is a true and correct copy of a January 5, 2012 e-mail from Mr. Castellano to Mr. Bates.

22. Attached hereto as Exhibit 19 is a true and correct copy of a January 26, 2012 e-mail from Mr. Castellano to Mr. Bates.

23. Attached hereto as Exhibit 20 is a true and correct copy of a January 26, 2012 e-mail from Mr. Castellano to Mr. Bates

24. Attached hereto as Exhibit 21 is a true and correct copy of a February 19, 2012 e-mail from Mr. Castellano to Mr. Bates.

25. Attached hereto as Exhibit 22 is a true and correct copy of a March 8, 2012 e-mail from Mr. Castellano to Mr. Bates.

26. Attached hereto as Exhibit 23 is a true and correct copy of a March 12, 2012 e-mail from Mr. Castellano to Mr. Bates.

27. Attached hereto as Exhibit 24 is a true and correct copy of a May 23, 2012 e-mail from Mr. Castellano to Mr. Bates.

28. Attached hereto as Exhibit 25 is a true and correct copy of a June 12, 2012 e-mail from Mr. Castellano to Mr. Bates.

29. Attached hereto as Exhibit 26 is a true and correct copy of a May 1, 2012 e-mail from Mr. Bates to Mr. Hoti.

30. Attached hereto as Exhibit 27 is a true and correct copy of a May 19, 2012 e-mail from Mr. Hoti to Mr. Bates (among others).

31. Attached hereto as Exhibit 28 is a true and correct copy of a May 30, 2012 e-mail from Mr. Bates to Mr. Hoti (among others).

32. Attached hereto as Exhibit 29 is a true and correct copy of a May 25, 2012 e-mail from Mr. Castellano to Mr. Bates (among others).

33. Attached hereto as Exhibit 30 is a true and correct copy of a screenshot of a web site page for Intercom Poland (doing business as “PolTV”), showing Intercom Poland’s authorized dealers in several states including New York (<http://www.pol.tv/us/locations.php>, last visited September 27, 2012).

34. Attached hereto as Exhibit 31 is a true and correct copy of a May 30, 2012 e-mail from Daniel C. Cole to Mr. Bates (among others), which e-mail Intercom Ventures produced.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 28th day of September 2012.



A handwritten signature in black ink, appearing to read "Jon Zavin". It is written over two horizontal lines. The name is printed below the signature.

JONATHAN ZAVIN